

**IN THE UNITED DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

LILIANA GONZALES

k/n/a LILIANA GONZALES-PITTMAN, }

Plaintiff, }

No.

vs. }

}

RYAN D. McCARTHY, }

SECRETARY OF THE ARMY, }

}

Defendant. }

JURY DEMANDED

COMPLAINT FOR EMPLOYMENT

DISCRIMINATION ON THE BASIS OF DISABILITY AND RETALIATION

Plaintiff, by and through her attorney, The Gilpin Law Firm, LLC, (Donald G. Gilpin) alleges and states:

JURISDICTION AND VENUE

1. Further, this action is brought by Plaintiff to remedy discrimination on the basis of disability in the terms, conditions and privileges of employment, in violation of the Americans with Disabilities Act of 1990 as amended. 42 U.S.C. § 12101e, et seq.(ADA).
2. Plaintiff Liliana Gonzales-Pittman is a resident of Sandoval County, New Mexico.
3. Upon information and belief, Defendant Secretary Ryan McCarthy is a governmental official with the capacity to be sued. Defendant is an employer within the meaning of the ADAA.
4. Venue is proper because Defendant resides within Bernalillo County.

5. Plaintiff filed a timely EEO charge and received her Notice of Right to Sue on October 6, 2020.

ALLEGATIONS

6. On or about July 2015 Plaintiff was hired by Defendant in the position of Fire Inspector.

7. On September 3, 2015, Plaintiff was injured on the job. Plaintiff was exposed to a chemical inhalation exposure.

8. Plaintiff is female and suffers from a disability as a result of the on the job injury.

9. Plaintiff suffers from chronic bronchitis. A disability that affects her ability to breath.

10. As a result of her disability, Plaintiff requested an accommodation to be relocated to another geographic area. Plaintiff's physicians recommended that Plaintiff not return to Fort Bliss because the air quality in that area was harmful to Plaintiff.

11. However, Defendant failed to accommodate Plaintiff and began retaliating against Plaintiff.

12. The retaliation consisted of Plaintiff being given written discipline, a negative evaluation, being put on Leave Without Pay (LWOP), and terminated on July 30, 2016.

13. As a result of the discriminatory acts of Defendant, Plaintiff has suffered harm in the form of lost wages and benefits.

14. As a result of the discriminatory acts of Defendant, Plaintiff has suffered harm in the form of emotional distress.

15. Plaintiff has also suffered costs incurred in bringing this action.

COUNT I. DISABILITY DISCRIMINATION

16. Plaintiff repeats and realleges each and every allegation contained in paragraphs 1 through 15 of this complaint with the same force and effect as if set forth herein.

17. Defendant has discriminated against Plaintiff in the terms and conditions of her employment on the basis of her disabilities, in violation of the ADA and the Rehabilitation Act.

18. Plaintiff has a disability that affects her life activities of breathing.

19. Defendant has discriminated against Plaintiff by disciplining her, given her a negative evaluation, putting her on LWOP and terminating her.

20. Defendant terminated Plaintiff even though Defendant would have not suffered any undue hardship.

21. Plaintiff has suffered, and will continue to suffer, irreparable injury and monetary damages as a result of Defendant's discriminatory practices, unless and until this Court grants relief.

JURY DEMAND

22. Plaintiff requests a trial by jury.

WHEREFORE, Plaintiff respectfully requests that this Court enter a judgment:

- (A) Awarding Plaintiff compensatory damages that would make her whole for all earnings she would have received but for Defendant's discriminatory treatment, including, but not limited to, wages, and other benefits;
- (B) Awarding Plaintiff damages for emotional distress suffered from Defendant's discriminatory treatment.
- (C) Awarding Plaintiff the costs for this action, together with reasonable attorney's fees, as provided by the Americans with Disabilities Act; and
- (D) Granting such other and further relief as this Court deems necessary and proper

Respectfully submitted,

THE GILPIN LAW FIRM, LLC

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